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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,028	11/01/2000	Gary G. Lenihan	060545/0456	2436

7590 10/07/2002

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EXAMINER

MILLER, BENA B

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 10/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/704,028

Applicant(s)

LENIHAN, GARY G.

Examiner

Bena Miller

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 9-14, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 9, 11-14, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3712

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 9 and 13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 9, it is unclear as to what structure is encompassed by the subject matter "window". On page 5 of the specification, applicant recites "the rear wall of the upper frame portion includes a window opening and a window sill and a pair of shutters at the opening". It is unclear as to whether or not if the window is a window opening or a window. If the window is an opening, how is it different from the window opening or if the window is not an opening, what is considered the window? Further, the specification recites the window opening including shutters; however, the claim indicates a window or a shutter at the opening.

Regarding claim 13, on page 7, line 27 to page 8, line 4, of the specification, it is unclear by the specification what structure is defined by the first and second play area and how are the first and second play areas bounded by one side of the first unit (Note fig. 5, for example only).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 9 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, there is lack of antecedent basis for the limitation "at least three positions".

Regarding claim 9, it is unclear to the examiner whether or not if the window is a window opening or a window. If the window is an opening, how is it different from the window opening or if the window is not an opening, then what is considered the window. It appears from the figures that the window opening includes shutters; however, the claim indicates a window or a shutter at the opening.

Regarding claim 13, it is unclear to the examiner what structure defines the first and second play area. Further, how are the first and second play areas bounded by one side of the first unit. It appears that the first and second play areas are opened spaces (Note fig. 5 for example only).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 11-14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Klien.

Klien teaches in figures 1-8 a toy kitchen comprising a main unit (marked copy fig.9) and a repositionable island (marked copy fig. 9) removably coupled to a front surface of the main unit (marked copy fig. 11) to form at least two separate play areas (marked copy fig. 11).

Regarding claim 2, as best understood, Klien further teaches removably attached to the main unit in one of at least three positions (fig. 9 and fig. 11).

Regarding claim 3, Klien further teaches the main unit consisting a cabinet (F, fig. 1) and the island consisting of a work surface (F, fig. 2).

Regarding claim 6, Klien further teaches the island is removably connected to the left side of the main unit (fig. 11) to form a continuous play area along a single plane.

Regarding claim 11, Klien further teaches at least one toy accessory consisting of a cabinet (fig. 1).

Regarding claim 12, Klien teaches in figures 1-8 a repositionable toy kitchen comprising a first unit extending along a first vertical longitudinal plane (marked copy fig. 11), at least one removable and repositionable second unit extending along a second vertical longitudinal plane (marked copy fig. 11), the second unit removably connected to a front surface of the first unit to form at least two play areas (marked copy fig. 11, "play area") and the second position, where the first and second planes are coplanar (fig. 11).

Regarding claim 13, as best understood, Klien further teaches first and second play areas (marked copy fig. 11 "first and second play areas"; notice the examiner considers the space indicated by "second play area" behind the first unit and the space

indicated by "first play area" to be the play areas), the first and second play areas bounded by the one side of the first unit (As best understood, the examiner considers the first and second areas to be bounded by the sides where the first and second unit meet as seen in marked copy fig. 11, "bounded"), and the second position defines a continuous play area extending along of the second unit (fig.11).

Regarding claim 14, Klien further teaches a main kitchen unit as the first unit (fig. 1) and an island as the second unit (fig.2).

Regarding claim 16, Klien further teaches the first unit consisting of a cabinet (F, fig. 1) and the second unit consisting of a work surface (F, fig. 2).

Regarding claim 17, Klien further teaches the first unit removably positioned to the second the second unit in at least the first and second positions (fig 9 and 11).

Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by McKee.

McKee teaches in figures 1-13 a toy kitchen comprising a main unit (marked copy fig. 10) and a repositionable island (marked copy fig. 10) removably coupled to a front surface of the main unit (marked copy fig. 10) to form at least two separate play areas (marked copy fig. 10).

Regarding claim 9, as best as understood, McKee further teaches a front and rear side (fig. 10), an opening defined within the main unit extending from the front side to the rear side (marked copy fig. 10) and the main unit comprising a window at the opening (marked copy fig. 10).

Response to Arguments

Art Unit: 3712

Applicant's arguments filed 09/23/02 have been fully considered but they are not persuasive. In reference to applicant's remarks that Klein fails to teaches a module extending outwardly from the front surface of the toy kitchen, the examiner disagrees. It appears that applicant is arguing limitations which are not recited in the claims. Claim 1 recites "a repositionable island removably coupled to the front surface of the main unit" and claim 12 recites similar claim language (note lines 5 and 6). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

In reference to applicant's remarks that Klien fails to teach distinct play areas, the examiner disagrees. As noted above, Klien teaches in the figures play area although applicant did not recite the term "distinct play areas" in the claims. Further the applicant argues that Klein fails to teach arranging the modules such that the children have a distinct individual pay areas that is divided by a common area. Once again, applicant argues limitations which are not recited in the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

Art Unit: 3712

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643.

The examiner can normally be reached on Monday-Friday.


Bena Miller
Examiner
Art Unit 3712

bbm
October 1, 2002

Fig
(8)

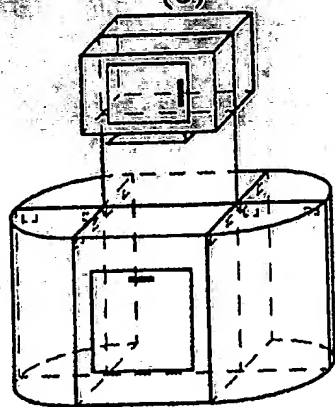
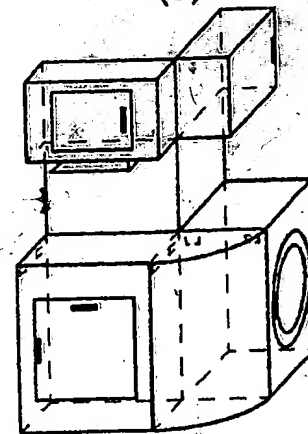


Fig
(9)



REPOSITIONAL
Island

MAIN
UNIT

Fig
(10)

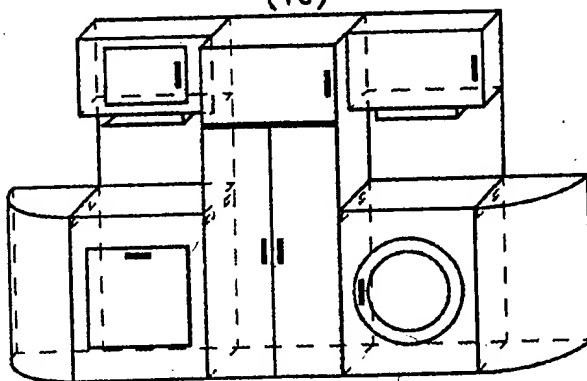
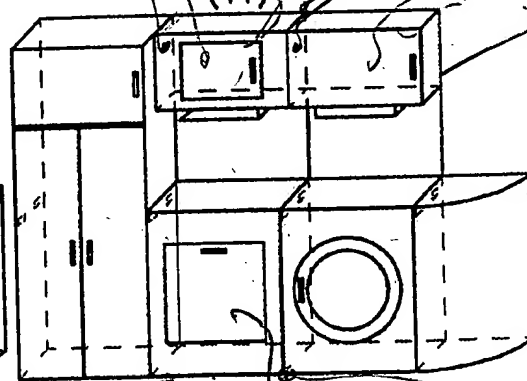


Fig
(11)



Second play area
bounded area

front
surface
play area

second
unit

bounded
area

first
play area

MAIN
UNIT
(first unit)

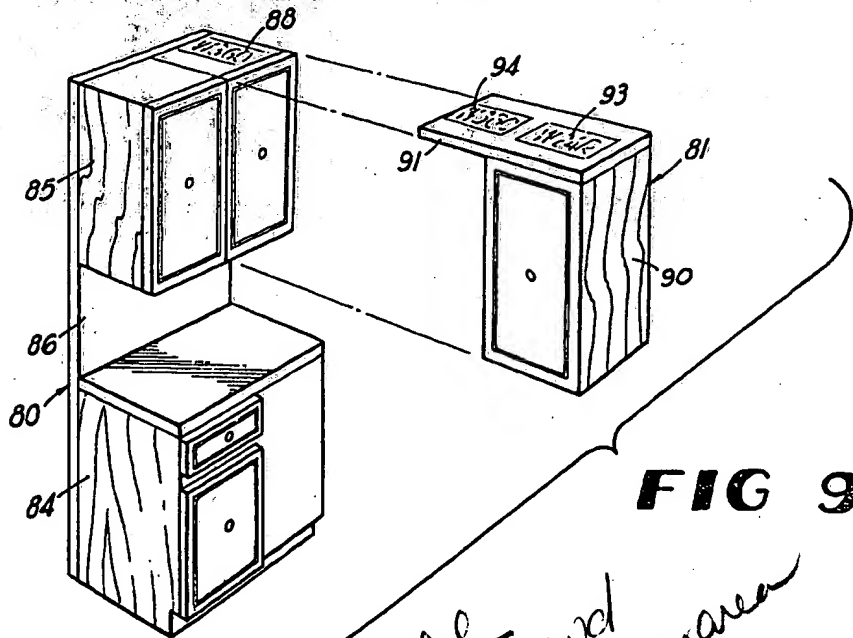


FIG 9

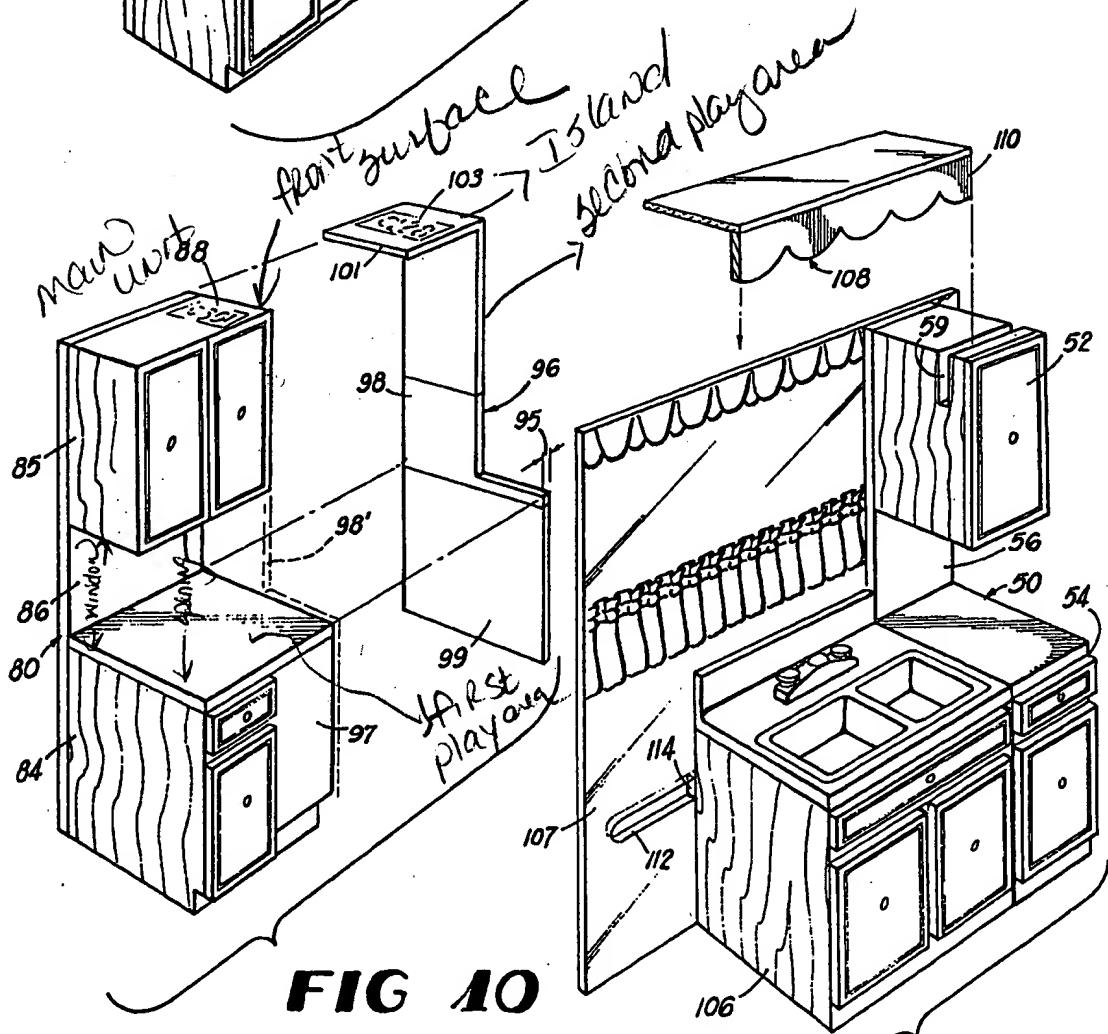


FIG 10

FIG 11